

DEPARTMENT OF PLANNING
STAFF REPORT

PLANNING COMMISSION PUBLIC HEARING

DATE OF HEARING: February 19, 2009

SPEX 2008-0022, Cider Mill Kennel

DECISION DEADLINE: April 7, 2009 (extended by Applicant)

ELECTION DISTRICT: Blue Ridge

PROJECT PLANNER: Michael Elabarger

EXECUTIVE SUMMARY

Cerberus Farms, LLC of Purcellville, Virginia has submitted an application for a special exception to permit a kennel in the AR-1 (Agricultural Rural-1) zoning district. The property is also located partially within the FOD (Floodplain Overlay District) and is subject to Section 5-1000, Scenic Creek Valley Buffer. The property is adjacent to the Hillsboro Agricultural and Forestal District. This application is subject to the Revised 1993 Zoning Ordinance and the proposed use is listed as a Special Exception use under Table 2-102 of Section 2-102 of the Ordinance, and is subject to the Additional Regulations set forth in Section 5-606. The property is approximately 20.97 acres in size and is located on the north side of Cider Mill Road (Route 751), west of Charles Town Pike (Route 9), at 14807 Cider Mill Road, Purcellville, Virginia in the Blue Ridge Election District. The area is governed by the policies of the Revised General Plan, which designates this area for rural economy uses and limited residential development.

With approval to operate a kennel on the property, the applicant is proposing the construction of a new 4,000 square foot (40'x100') kennel building with outdoor runs to accommodate the housing and training of up to 40 bomb/drug sniffing dogs for use in the law enforcement and security professions. A maximum of ten (10) employees is expected with no more than four (4) employees residing at any time in the existing dwelling.

The Department of Animal Care and Control intends to present the associated kennel application applied for by this applicant to the Board of Supervisors at the same time this special exception application is presented.

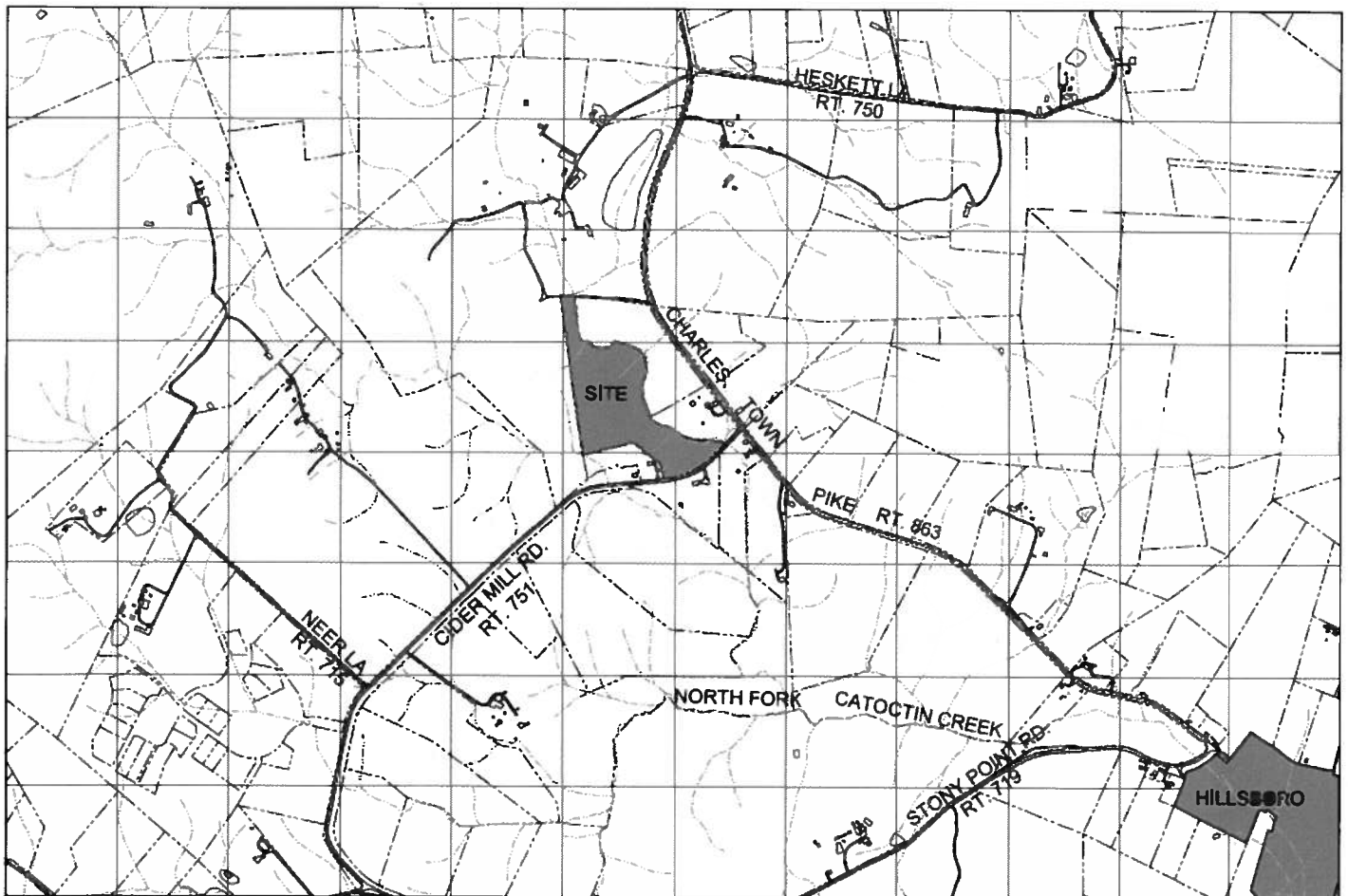
RECOMMENDATIONS

Staff supports approval of the application, subject to the Conditions of Approval dated February 5, 2009. Further discussion may be appropriate regarding potential noise impacts.

SUGGESTED MOTIONS

1. I move that the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to the Board of Supervisors with a recommendation of approval, based on the Findings in this staff report and subject to the Conditions of Approval dated February 5, 2009.
Or,
2. I move that the Planning Commission forward SPEX 2008-0022, Cider Mill Kennel, to Committee for further discussion.
Or,
3. I move an alternate motion.

VICINITY MAP



Directions: From Leesburg, take Harry Byrd Highway (Route 7) west to Clarks Gap; take exit for Route 9 (west). Follow Route 9 through the Town of Hillsboro. Turn left onto Cider Mill Road (Route 751). Site is the first property on the right (north) side at 14807 Cider Mill Road.

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I. APPLICATION INFORMATION

APPLICANT: Cerberus Farms, LLC
Tim Tonsor
11781 Lee Jackson Highway
Suite 200
Fairfax, VA 22033
703-587-4073

OWNER: Cerberus Farms, LLC
James Jacobson
14807 Cider Mill Road
Purcellville, VA 21032

REPRESENTATIVE: Mark Thomas, C.L.A.
PHR&A
208 Church Street, SE
Leesburg, VA 20177
703-777-3616
Mark.Thomas@phra.com

PROPOSAL: A Special Exception to permit a kennel to operate a dog training facility in the AR-1 Zoning District.

The application was accepted for processing on July 31, 2008.

PROPERTY ADDRESS: 14807 Cider Mill Road, Purcellville VA 20132

TAX MAP/PARCEL: Tax Map— /15/////////25/ MCPI— 548-10-4925-000

CURRENT ZONING: AR-1

PROPOSED NON-RESIDENTIAL FLOOR AREA: 4,000 sf total

SURROUNDING ZONING/LAND USE:

| | | |
|--------------|------|-----------------------------|
| NORTH | AR-1 | Farm/Suburban Single Family |
| SOUTH | AR-1 | Suburban Single Family |
| EAST | AR-1 | Suburban Single Family |
| WEST | AR-1 | Farm |

ELECTION DISTRICT: Blue Ridge

II. Summary of Discussion

| Topic/ Issue Area | Issues Examined and Status |
|-----------------------|--|
| Land Use | Provide the number of dogs housed/trained at any given time at the facility, and standard size of dog-training class - RESOLVED. |
| | Describe indoor and outdoor training plans, off-leash restrictions - RESOLVED |
| | Incorporate acoustical treatments into design of proposed kennel building to further minimize noise emanating from the building - RESOLVED |
| Zoning | Outdoor training areas must be set back at least 100' from property lines – RESOLVED. |
| | Commit to the proposed landscape plan providing a type 4 buffer yard on the northeast and southwest property lines - RESOLVED |
| | Demonstrate on the SPEX plat the lot, yard, and building requirements of the AR-1 zoning district and additional regulations of Section 5-606 - RESOLVED |
| | Make suggested Plat notations regarding performance standards, lighting, and dust-free parking area surface materials - RESOLVED |
| | The existing single family dwelling may not be inhabited by more than four unrelated adults at one time - RESOLVED |
| Environmental | Identify adequate capacity for water and sewage facilities - RESOLVED |
| | Provide details regarding sewage facilities for kennel operations (animal bathing, laundry, animal waste disposal, kennel washing) – RESOLVED |
| | Identify existing wells and drainfields on future plats - RESOLVED |
| | Depict the River and Stream Corridor 50-foot Management Buffer or the 100-foot Stream Buffer measured from the channel scar line, whichever is greater, and perform no land disturbances within this area - RESOLVED |
| | Identify the moderately steep (15-25%) and very steep (greater than 25%) slopes impacted by the development - RESOLVED |
| | Identify the location of the sycamore tree on Sheet 3, and locate the proposed kennel and shift alignment of the gravel access to preserve this tree - RESOLVED |
| Transportation | Eliminate the existing gravel 'eyelash' driveway at the front of the residence, utilize only a VDOT-approved commercial entrance - RESOLVED |
| | Reserve for future dedication to the County 25-foot right-of-way from centerline of Cider Mill Road for future improvements - RESOLVED |
| | Regarding STPL 2006-0021, improve sight distance by grading the slopes on both sides of the entrance and selectively clearing vegetation to address VDOT comments - RESOLVED |
| Site Design | Demonstrate that the noise level from barking dogs will not exceed the standard of than 55 dB(A) (5-606(C)(5)) as measured at the property line of any adjacent residential lot where the lot is designed for a single family dwelling unit as a principal use - OUTSTANDING |
| | Commit to meeting the exterior lighting standards of <u>Zoning Ordinance</u> Section 5-652(A), with hours of operation further limited to between 6:00 a.m. and 8:00 p.m. - RESOLVED |
| | Commit to site lighting which is the minimum intensity of lighting necessary for the operation of the proposed kennel - RESOLVED |

III. FINDINGS FOR APPROVAL

1. The proposed Special Exception use – a kennel – subject to the Conditions of Approval, is consistent with the planned land use policies of the Revised General Plan.
2. The proposed Special Exception use – a kennel – subject to Conditions of Approval, complies with the applicable requirements of the Revised 1993 Zoning Ordinance.
3. The proposed Special Exception use – a kennel – is an example of a rural economy use that can co-exist with the predominant agricultural and residential land use pattern.
4. Adequate provisions and commitments have been provided to mitigate potential noise and light impacts on the adjoining residential properties.

IV. CONDITIONS OF APPROVAL

(DRAFT 02/05/09)

1. Substantial Conformance – The proposed Special Exception use, a kennel in the AR-1 (Agricultural Rural-1) zoning district, shall be developed in substantial conformance with Sheets 1, 3, and 4 of the Special Exception Plat set, dated July 2008, and revised through January 7, 2009 (“the Plat”). Approval of this application for Tax Map /15/////////25/ (PIN #548-10-4925-000) shall not relieve the owners of the property from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. Number of Dogs – There shall be no more than forty (40) dogs on the property at any one time.
3. Employees in Existing Dwelling – There shall be no more than four (4) unrelated persons staying overnight in the existing single-family detached dwelling on the property at any one time. Said persons shall be employees of, or be contracted for employment with, the kennel business operators.
4. Hours of Operation – Outdoor kenneling or outdoor training activities of dogs shall occur only between 10:00 a.m. and 4:00 p.m. daily. This condition does not apply to indoor kenneling.
5. Outdoor Dog Training Area – The area on the Plat identified as an existing horse paddock, adjacent to Cider Mill Road, shall not be used in any manner for the training of dogs. Any outdoor dog training activities shall only occur within the 100’ kennel setback perimeter from the property boundaries as shown on the Plat, but not within the 50’ River and Stream Corridor management buffer or the 150’ Scenic Creek Valley Buffer. Any outdoor dog training or other dog activity area shall be sufficiently fenced within the previously described 100’ kennel setback perimeter of the property where such activities may occur. For the purposes of this condition, a dedicated outdoor dog training area may include features such as but not limited to graded areas, lighting fixtures, or structures/equipment (either permanent or temporary). When not within said fenced-in

areas, dogs outside any of the buildings on the property shall be on leashes and supervised by kennel staff.

6. Kennel Building – In order to minimize noise emanating from the building, the 4,000 square foot kennel building shall be constructed in substantial conformance with the undated elevations submitted to the County November 25, 2008, prepared by Houndquarters, Inc. of Phoenix, Arizona, entitled “New Facility for: Covenant Canine – Fairfax, VA”, “Project: 0844” labeled A1 and A2.
7. Noise Mitigation – Noise from the kennel use shall comply with all of the standards set forth in Sections 5-606(C)(5) of the Revised 1993 Zoning Ordinance (the “Zoning Ordinance”).
8. Lighting – Lighting on the Property shall comply with Zoning Ordinance Section 5-652(A) except as may be modified as follows:
 - a. For all lighting placed on the exterior of any building, including security lighting, the maximum average illumination over the exterior of the building shall not exceed 5-foot candles. For all parking lot lighting, the maximum average illumination over the parking area shall not exceed 2-foot candles.
 - b. The maximum mounting height of any exterior light fixture shall not exceed 20 feet. Height shall be measured from the ground to the bottom of the light fixture.
 - c. Any lighting illuminating outdoor areas for dog training or other dog activities shall be utilized only between 9:00 a.m. and 5:00 p.m.
9. Kennel Permit Required – No occupancy permit for a kennel use on the subject property shall be issued until a Kennel Permit has been granted for the subject property by the Board of Supervisors pursuant to Chapter 808 of the Codified Ordinances of Loudoun County.
10. Health Department Permits – The Applicant shall obtain all required permits from, and comply with all conditions established by, the Loudoun County Health Department, including but not limited to compliance with applicable County standards for animal waste disposal.
11. Landscaping/Buffering – Landscaping shall be installed in conformance with the landscaping shown on the Plat, and be maintained in compliance with Section 5-1410 of the Revised 1993 Zoning Ordinance (the “Zoning Ordinance”).
12. Driveway Improvements – The Applicant shall construct a commercial entrance to the site according to VDOT standards. The existing circular ‘eyelash’ driveway in front of the existing residence adjacent to Cider Mill Road shall be removed and grassed over.
13. Cider Mill Road Right-of-Way – The Applicant shall reserve a twenty-five foot (25’) strip of ground, upon and across its entire frontage adjacent to, and measured from the center-line of, Cider Mill Road for future dedication to the Board of Supervisors for public street purposes, with such dedication to be granted at the request of the County and at no public

cost. . Such reservation shall be granted to the County by Deed, in form approved by the County Attorney, recorded prior to the approval of the site plan for the kennel.

14. Building Elevations – Subject to final engineering constraints, the kennel building, training arena, and administration building to be constructed on the Property shall be in substantial conformance with the undated elevations submitted to the County November 25, 2008, prepared by Houndquarters, Inc. of Phoenix, Arizona, entitled "New Facility for: Covenant Canine – Fairfax, VA", "Project: 0844" labeled A2.

Note: The Applicant has agreed to provide a one time fire and rescue contribution to the County in the amount of \$0.10 per square foot of non-residential floor area construction for equal distribution between the primary fire and rescue servicing companies. This contribution shall be made at the time of issuance of the applicable zoning permits. This contribution shall escalate annually from the base year of 1988 and change effective each January 1st thereafter, based on the Consumer Price Index for all urban consumers (CPI-U), 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics.

V. PROJECT REVIEW

A. History

Beginning in 2005/2006 to the present, the applicant has been operating a dog training facility for law enforcement/security purposes on the property in much the same manner, but at a lesser intensity, as proposed in this application. The applicant has worked extensively with the Department of Building and Development to determine the exact use their operation is defined as, and what regulations they must meet. The applicant sought the use to be categorized as either a by-right agricultural use, a home occupation, or a small business. At this time, the property was zoned A-3, and the use did not fit the Ordinance regulations for a kennel, as detailed by the County in a zoning correspondence letter (see Attachment 5., ZCOR 2005-0065).

The applicant submitted a site plan application (STPL 2006-0021), which was extensively reviewed and had outstanding comments from VDOT regarding sight distances for the property. During the time of the review of the site plan, the County approved (December of 2006) Zoning Amendment (ZOAM) 2005-0002, which revised the governing regulations for the property and made a kennel use for six or more dogs a use by special exception and subject to certain performance criteria (see Attachment 6, Ordinance Section 5-606). With Zoning Map Amendment (ZMAP) 2005-0042, the County also did a comprehensive remapping which changed the zoning district of the subject property from A-3 to AR-1.

With the change in zoning regulations, and the site plan in review, it was determined (see Attachment 7) that the proposed use fell under the category of a kennel per Section 5-606(A), and that the applicant needed to apply for a special exception for their planned operation. This application was accepted July 31, 2008, and the site plan application review is pending until action on this special exception. Attachment 8 is a chronology of correspondence and activities related to the applicants attempt to develop this use. If this special exception application is approved, the active site plan will need to be amended to be consistent with the outcome of this application.

B. Context

This Special Exception application requests approval to expand the current operation to kennel up to 40 dogs and build a new 4,000 square foot kennel building, which includes a fenced "covered outdoor run" portion of each kennel pen exposing the dogs to the outdoors. The applicant will continue to utilize the existing single-family dwelling, existing kennel, and other outbuildings on the subject property. Through the referral process, the applicant resolved all issues identified by Staff, and the applicant was requested to demonstrate the ability to meet the required minimum noise levels (55 decibels) at property lines. The applicant stated that 95% of the daily training would occur indoors, with only agility drills occurring in unspecified outdoor training areas. Graphic 1. shows the existing buildings currently used, from the approximate location of the new proposed kennel building.

Graphic 1. – Existing buildings viewed from the north looking toward Cider Mill Road.



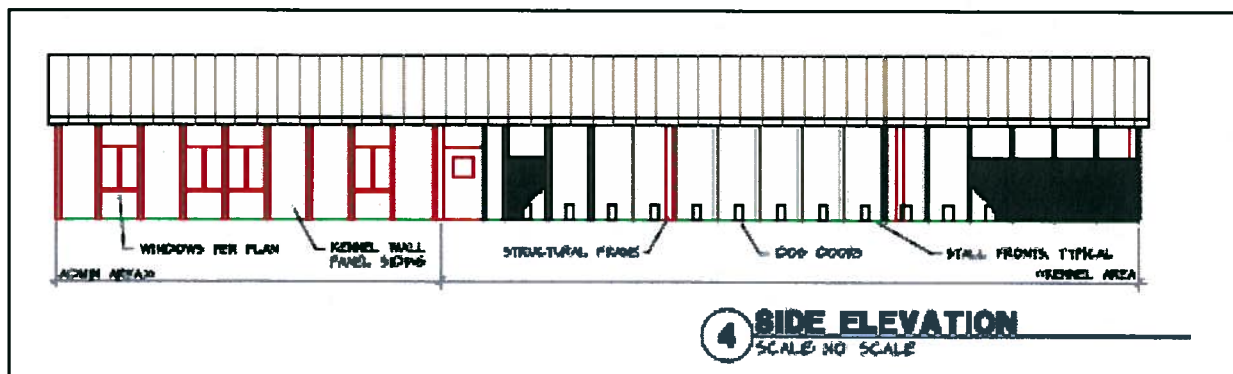
The Property consists of approximately 21 acres and is located on the north side of Cider Mill Road (Rt. 751), a minimum of approximately 200 feet from Charlestown Pike (Virginia Route 9) and approximately one mile northwest of the Town of Hillsboro. The property has a single-family detached home, several barns and outbuildings previously used for the boarding of horses, small yard areas, and a horse riding ring equipped with lights, all of which comprising approximately 2 acres of the site. The remainder of the Property is characterized by open fields (see Graphic 2.) on approximately half the site (~11 acres), and approximately 7-8 acres of wooded slopes or floodplain on the eastern boundary.

The proposed new kennel building with outdoor runs (see Attachment 9, Conceptual Floor Plans for image) would be in the center of the property, built partially into the grade of a hill on the buildings' western side. The property is bordered on the north, east and south by three residential properties ranging in size from 3 to 11 acres and to the west by a 116.5 acre farm. The closest occupied structure is just 15-20 feet west of the southwestern Property line near the existing riding ring, but is approximately 475 feet southwest from the proposed kennel structure. To the northeast and east, across the stream, the nearest home and occupied structure, respectively, are both approximately 700 feet from the proposed kennel structure.

Graphic 2. – View northward from center of property near site of proposed new kennel.



Excerpt from the Conceptual Floor Plan (see Attachment 9).



C. Summary of Outstanding Issues

Through the referral process, all but one Staff concern was fully addressed - potential noise impacts. The Zoning Ordinance regulates noise impacts for a kennel in Section 5-606(C)(5), which states that *"(T)he maximum allowable db(A) level of impulsive sound emitted from the use, as measured at the property line of any adjacent residential lot where the lot is designed for a single-family dwelling unit as a principal use, shall not exceed 55 db(A)."* The barking of dogs is an impulsive sound, as compared to a stationary form of sound (i.e., generators), which is regulated in Section 5-1507 of the Ordinance. Exceeding this regulation would constitute a zoning violation, with penalties applied per Section 6-504. Discussions with the applicant about noise resulted in the applicant offering a noise study and a site visit to a similar kennel building for comparison and noise evaluation. Neither of these were provided by the applicant prior to the writing of this staff report. The Planning Commission may wish to request this from the applicant if noise is a concern.

Graphic 3. – The nearest neighbor (southwest, beyond vegetation) is approximately 520' from the proposed new kennel building.



Staff has reiterated Section 5-606(C)(5) in Condition (7.), which would govern any times that the dogs are outside any buildings on the property for transport or training, including when they are in the outdoor run portion of the kennel building. Conditions (4.), (5.), and (8.) further limit the time and manner in which dogs are outdoors. The only permanent means of eliminating any potential noise impacts would be to condition the building to not have the outdoor run portion (ie, a totally enclosed building), and to condition that there shall be no outdoor training of any sort on the property. Both of those actions would greatly curtail the applicant's ability to operate the use, and is not suggested by Staff.

Though Staff would like to review noise data and observe the similar operating facility, Staff believes that the impacts of the proposed development will largely be mitigated through Ordinance regulations and the draft Conditions of Approval.

The applicant was provided the draft Conditions of Approval (dated 02/05/09), and did not provide comment prior to the publishing of this staff report.

D. Overall Analysis

The subject property is zoned AR-1 (Agriculture Rural-1) and is governed under the provisions of the Revised 1993 Zoning Ordinance. The Revised General Plan (Plan) places the property within the northern tier of the Rural Policy Area, which envisions rural economy uses and limited residential development in this area. The establishment of the proposed new kennel building as part of the use on the subject property will require the grading of an existing open field but will not impact any environmental features as identified by the County. The subject property has road frontage on Cider Mill Road (Route 751), which is a designated Virginia Byway.

COMPREHENSIVE PLAN

LAND USE

The preservation and enhancement of the rural economy is a central focus of the rural strategy of the Plan, which has policies that support the establishment of business uses in the Rural Policy Area that preserve the rural character of the landscape, that are compatible with the dominant rural agricultural land use pattern, and that promote opportunities for the expansion of the County's rural economic as well as environmental goals. The Plan identifies a variety of traditional and non-traditional rural business uses, which include crop and cattle production, the equine industry, vineyards and wineries, horticulture and specialty farm products, farms markets and wayside stands, small farm supportive businesses, hospitality services (bed and breakfasts, country inns, and rural resorts), private camps and parks, etc. which are appropriate in the Rural Policy Area.

Though not an agricultural use, the proposed use for the kenneling (and training) of dogs and utilizing an existing residential property for a non-residential use is consistent and in conformance with the rural economic objectives and land use policies prescribed by the Plan for the Rural Policy Area. The Plan outlines a series of performance criteria that all rural business uses should meet in order to ensure their compatibility with the character of the

surrounding rural area; *traffic capacity limits, employee limits, site design standards (i.e. buffering, use intensity, siting, architectural features) and pose no threat to public health, safety and welfare.* Noise, light, and parking impacts are also factors in compatibility with the existing and planned rural environment. The Zoning Ordinance established standards for these performance criteria policy as discussed in the following Zoning section.

GREEN INFRASTRUCTURE

The Green Infrastructure is a collection of natural, cultural, heritage, environmental, protected, passive and active resources that will be integrated in a related system. It includes stream corridors, vegetative landscapes, wildlife and endangered species habitats, and heritage resources. The eastern border of the property has several natural features – a stream, floodplain, steep slopes, and existing vegetation. No development is proposed in any of these areas, and all Plan policy setback distances are shown.

River and Stream Corridor – The Plan places a priority on the protection of rivers, streams and wetlands; the retention of natural riparian forests and vegetation; and the preservation, buffering, and implementation of performance standards and best management practices as part of a larger water protection strategy. A small stream moves north to south forming the eastern boundary of the property, and the Plat identifies existing dense vegetation, major floodplain limits, 150' Scenic Creek Valley Buffer, and the 50' river and stream management buffer. A very small portion of the flexible management buffer is proposed to be encroached, in order to preserve a large existing tree and limit the amount of slope disturbance and grading with the proposed location of the 12' wide gravel access drive. No impacts to streams, floodplains, or existing vegetation are anticipated from this minor encroachment.

Forests, Trees, And Vegetation – The County's forests and trees improve air and water quality, offer important habitat for birds, small mammals and other wildlife, and are excellent buffers between communities. No trees are proposed to be removed with any activities related to the proposed use, and the applicant has sited the building and driveway so as to preserve an existing large tree.

ZONING

The property is zoned AR-1 (Agricultural Residential) and is subject to the regulations of the Revised 1993 Zoning Ordinance. The property is located one property away (to the west) from the Hillsboro Agricultural and Forestal District, and portions of the site are located partially within the FOD (Floodplain Overlay District) and is subject to Section 5-1000, Scenic Creek Valley Buffer. The AR-1 district is a non-residential district, though low-density residential is allowed, with the purpose and intent of supporting rural economy uses, so long as they are compatible with existing permitted residential development.

Noise – As previously noted, Section 5-606(C)(5) of the Ordinance regulates noise impacts for a kennel use. The proposed outdoor run portion of the proposed new kennel building and an unspecified area for outdoor training activities have the potential of

generating noises which may adversely affect adjoining residential properties. The proposed conditions are expected to greatly limit the impacts of the use, which include limited outdoor operations, buffer design, and construction materials of the new kennel building.

Lighting – The Plan promotes sound night-lighting standards that will “reduce light pollution such as glare, energy waste, light trespass, and the deterioration of the natural nighttime environment”. Section 5-606(C)(4) regulates exterior lighting, referring to Section 5-652(A); the Plat Cover Sheet notes compliance with this section. Condition (8.) adds additional limitations on the height of mounted exterior lights (20’), maximum foot-candle levels, and hours of operation (between 9:00 a.m. and 5:00 p.m.) for lighting of training areas.

Landscaping and Buffering – The majority of the property’s perimeter, with the exception of the road frontage along Cider Mill Road (Route 751), is surrounded by existing hedgerows comprised of native deciduous trees and a scattering of evergreen trees along the southwest perimeter. There is also fencing along most of the perimeter. This existing vegetation forms a natural buffer that partially screens views of the existing buildings and proposed new kennel building from adjoining properties. Section 5-606(C)(3)(a) of the Zoning Ordinance refers to Section 5-653(A) for landscaping and screening, and Section - 5-653(B) for parking areas; both are noted for compliance on the Plat Cover Sheet. The applicant plans to build upon the existing vegetation surrounding the property to accomplish the Type 4 buffer; see Sheet 4 of the Plat for more detail.

A kennel use falls into Group 9 in Table 5-1414(A) of the Ordinance, and requires a Type 4 when adjacent a single-family detached dwelling (Group 1 use). Graphic 4. details the specifics of the Type 4 buffer. Section 5-1414(C) details the specific types of plant materials that can be used.

Graphic 4. - Excerpt from Table 5-1414(B)

| <u>Required Plantings per 100 Lineal Feet of Property Line</u> | | | | | | |
|--|---------------|-------------------|---------------|------------------|-----------------------------|--------------------------|
| TYPE 4 BUFFER | | | | | | |
| | Canopy | Understory | Shrubs | Evergreen | Fence, Wall, or Berm | Min. / Max. Width |
| <i>Front</i> | 4 | 3 | 20 | 0 | --- | 20' / 30' |
| <i>Side/Rear</i> | 2 | 5 | 10 | 8 | Six foot * | 25' / 30' * |

* - Providing a minimum 95% opacity.

The area of most concern is the southwest corner (See Graphic 5.), where the Property abuts a small (3.1 acres) residentially used parcel with a dwelling just 20-25 feet from the common property line. The Plat depicts a Type 4 side yard buffer from the western edge of the main entrance to the end of the common property line with this adjacent property. This will screen views of the proposed kennel use from this nearest neighbor, as well as providing a barrier to assist in the mitigation of noise impacts. Condition (11.) commits the applicant to the long-term maintenance and care of these proposed buffers.

Graphic 5. – *Nearest occupied dwelling, across horse riding ring, near Cider Mill Road*



Parking – There proposed kennel use is subject to Ordinance Section 5-1102(B)(20)(h), under the category of “Other Retail/Service Use” (see Attachment 6), as referenced by Section 5-606(C)(6)(a). Table 5-1102 states the parking requirements for “Other Retail/Service Use” are “as determined by the Zoning Administrator”. The applicant has proposed to provide a total of twelve (12) spaces - two (2) for the single-family dwelling and ten (10) for the proposed kennel (2.5 spaces / 1,000 sf), using the requirements for “Service Retail”. Loading spaces would be calculated the same as for a “General Retail” use, which does not require a space below 10,000 sf; therefore, no loading space is required. Staff was satisfied with this proposed amount of parking for the use. Parking areas exist behind the dwelling (See Graphic 6.) and adjacent the outbuildings and the driveway through the site. All parking areas will use dust-free surfacing materials as required in the Facilities Standards Manual (FSM). All aspects of parking are confirmed and approved at the time of site plan review.

Graphic 6. – *Part of existing area used for parking behind the single-family dwelling.*



Traffic Capacity – The proposed use is not open to the public, and only a limited number of employees (4) will be residing in the existing dwelling. The daily trips generated (38) can be handled by the existing road network, which will consist of vehicles bringing and picking up dogs individually or in a special kennel-like trailer. A commercial entry apron at the existing main entrance (see Graphic 7.) from Cider Mill Road will be constructed, and

the eye-lash gravel driveway immediately in front of the dwelling will be removed and grassed over. See the following Transportation section.

Graphic 7. – Existing main entrance, to be improved to commercial standards.



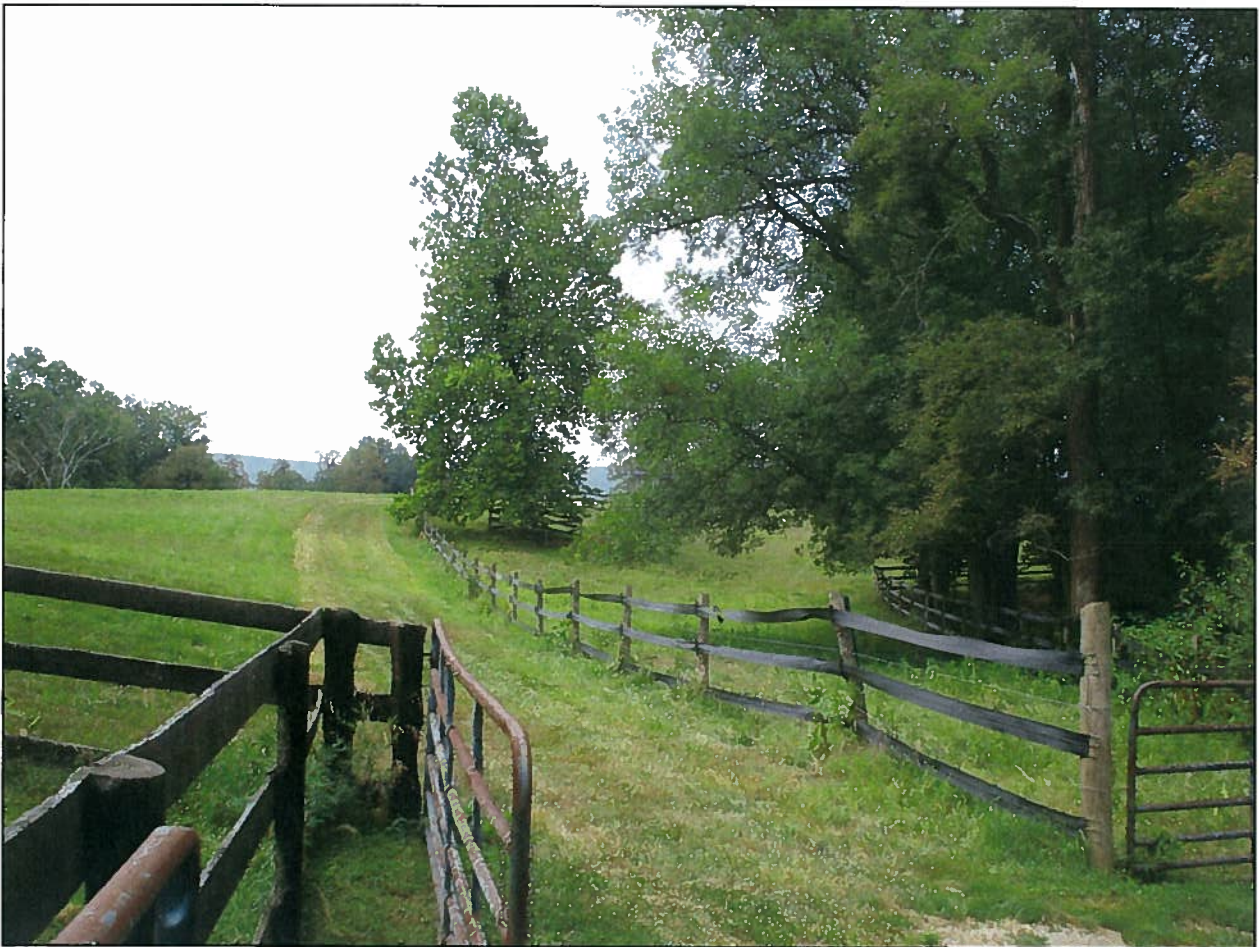
Employee Limits – In a response submission (pg. A-056), the applicant has noted that the maximum number of employees (“handlers”) expected with this use is ten (10). During review, of question was how the single-family dwelling was going to be used and whether it was permissible. Staff determined that it could be used as living quarters for the trainers if it is a principal use and if occupancy met the Ordinance definition of a “family”, which is defined in part as “a group of people living together consisting of No more than 4 unrelated persons.” Therefore, in order to use the dwelling to house the trainers, only four trainers may occupy the house at any one time, which is committed to in Condition 3.

The nature of the applicant’s business is primarily via contracts with local, State, or Federal law enforcement agencies, and the volume of their business varies with those contracts. The volume of persons – and dogs – on the property is expected to fluctuate widely, rarely meeting the maximum levels, and thus, lowering the impacts.

Use Intensity – The application is requesting a maximum capacity of up to 40 dogs, which is comparable to two other previously approved kennel operations: Aces Kennel, SPEX 2007-0049, approved for up to 28 dogs on 20 acres; Northern Virginia K-9 Academy, SPEX 2000-0043, approved for up to 160 dogs on 52 acres. With the proposed conditions for hours of operation for lighting and outdoor activities, number of persons staying on the property, and the stated operations of the business by the applicant (see Statement of Justification), negative impacts will be mitigated.

Siting – The general locating of a kennel in the Rural Policy Area is appropriate. The placement of the proposed new kennel building, where the dogs will spend the majority of their time while on the property, is very central to the property while minimizing its disturbances during construction; see Graphic 8. The building is proposed to be constructed into the hillside, which is supported by staff, as it will lower the profile of the building when viewed from the west. A concern is that noise may be amplified eastward from the outdoor runs on that side of the building as the land slopes downward toward the stream and floodplain and beyond, where there are two properties (though many hundreds of feet away).

Graphic 8. – *A gravel drive will follow the worn path, dip south around the tree in the center, and the new kennel building will be situated behind the tree and partially into the slope of the hillside.*



Architectural Features – There are no changes proposed to the existing buildings on the site, which will all be used for the proposed use in some fashion. The new kennel building is functional in its form and appropriate in scale and materials in the Rural Policy Area. See Attachment 9., Conceptual Floor Plans, for diagrams and elevations of the new building.

TRANSPORTATION

The subject property is located on Cider Mill Road (Route 751), a paved two-lane local road, which runs between Charlestown Pike (Virginia Route 9) just to the east, approximately 1.5 miles to an intersection with Stony Point Road (Route 719). The property is approximately 0.1 mile from Route 9. Cider Mill Road is approximately 18' wide in a variable right-of-way in this vicinity, and is designated a Virginia Scenic Byway; see Graphic 9. It has an average weekday travel volume of 620 vehicles. The proposed use would generate 38 total daily trips, with only four (4) trips in both the a.m. and p.m. peak periods for the road. Level of Service (LOS) for the property entering Cider Mill Road is currently "A", and expected to remain "A" with this use in operation.

Graphic 9. – Cider Mill Road, in front of property, looking toward Route 9.



Through the referral process, a commercial entrance meeting VDOT standards was requested and agreed to by the applicant. The applicant also agreed to close the gravel "eyelash" driveway just east of the primary, to-be improved main entrance. The applicant also agreed to reserving a twenty-five feet (25') from center-line right-of-way for Cider Mill Road for dedication to the Board of Supervisors should the road need to be improved in the future by others.

E. ZONING ORDINANCE CRITERIA FOR APPROVAL - SPEX 2008-0022

Section 6-1310 of the Loudoun County Zoning Ordinance states "In considering a special exception application, the following factors shall be given reasonable consideration. The applicant shall address all the following in its statement of justification or special exception plat unless not applicable, in addition to any other standards imposed by this Ordinance":

Below is Staff's analysis of these criteria; see the Applicant's Statement of Justification (Attachment 3) for their response.

(A) Standard *Whether the proposed special exception is consistent with the Comprehensive Plan.*

Analysis The proposed use is consistent with the type of rural economy uses envisioned in the Plan policies for the Rural Policy area. The anticipated impacts have been adequately mitigated through Conditions of Approval.

(B) Standard *Whether the proposed special exception will adequately provide for safety from fire hazards and have effective measures of fire control.*

Analysis All applicable fire hazards will be addressed at the time of site plan and building permit review.

(C) Standard *Whether the level and impact of any noise emanating from the site, including that generated by the proposed use, negatively impacts the uses in the immediate area.*

Analysis It is possible that the proposed use may potentially create and emanate noise across the property's boundaries from barking dogs. Conditions on the hours of outdoor operation and the number of dogs outdoors at any one time will keep any noise impacts to a minimum while allowing the applicant a sufficient amount of outdoor training time each day.

(D) Standard *Whether the glare or light that may be generated by the proposed use negatively impacts uses in the immediate area.*

Analysis Exterior lighting will comply with Ordinance Section 5-652(A), with additional limits in Condition (8.) on height of mounted exterior lights (20'), maximum foot-candle levels, and hours of operation (between 9:00 a.m. and 5:00 p.m.) for lighting of training areas.

(E) Standard *Whether the proposed use is compatible with other existing or proposed uses in the neighborhood, and adjacent parcels.*

Analysis Surrounding properties are used residentially and agriculturally, and the expected impacts from the proposed kennel use will be mitigated by the conditions of approval.

(F) Standard *Whether sufficient existing or proposed landscaping, screening and buffering on the site and in the neighborhood to adequately screen surrounding uses.*

Analysis The property has extensive existing vegetation, and fencing, on the sides and rear of the property. The applicant will augment and improve the southwestern corner of the property up to a Type 4 buffer to address potential noise and light impacts on the nearest residential use.

(G) Standard *Whether the proposed special exception will result in the preservation of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.*

Analysis The expansion of the use and the addition of the new kennel building will have little impact on the property due to the minimal size of the new building and small area needed to operate the use. All areas of the site with physical or natural features are being fully preserved.

(H) Standard *Whether the proposed special exception will damage existing animal habitat, vegetation, water quality (including groundwater) or air quality.*

Analysis The area of new development is small given the size of the property, and is currently used as pasture. Any land disturbance will be regulated by the Facilities Standards Manual (FSM) regarding erosion and sedimentation.

(I) Standard *Whether the proposed special exception at the specified location will contribute to or promote the welfare or convenience of the public.*

Analysis The product of the proposed kennel use will be dogs used for security, law enforcement, and military purposes.

(J) Standard *Whether the traffic expected to be generated by the proposed use will be adequately and safely served by roads, pedestrian connections and other transportation services.*

Analysis The traffic proposed from the use is minimal and can be accommodated by the existing road network.

(K) Standard *Whether, in the case of existing structures proposed to be converted to uses requiring a special exception, the structures meet all code requirements of Loudoun County.*

Analysis The proposed kennel use will continue to use the existing buildings on the Property, and any structure intended for occupancy will meet County and State building codes and safety standards.

(L) Standard *Whether the proposed special exception will be served adequately by essential public facilities and services.*

Analysis The proposed kennel use will be served by the County Sheriff's Department and the Neersville Volunteer Fire Station 16. Water and sewer are provided on-site; the existing drainfield system for the dwelling can accommodate the four (4) over-night employees. The applicant will identify a sewage disposal system for the kennel facility prior to approval of the site plan.

(M) Standard *The effect of the proposed special exception on groundwater supply.*

Analysis The proposed kennel use will be served by an existing well and sewage system and a separate sewage system for the new kennel building, and no effects on the groundwater supply are expected.

(N) Standard *Whether the proposed use will affect the structural capacity of the soils.*

Analysis The proposed kennel use is not anticipated to create any negative impact on the structural capacity of the soils. Grading and construction for the new kennel building will adhere to all requirements of the Facilities Standards Manual through the site plan process.

(O) Standard *Whether the proposed use will negatively impact orderly and safe road development and transportation.*

Analysis The minimal traffic impact of the proposed kennel use can be handled by the existing road network.

(P) Standard *Whether the proposed special exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.*

Analysis The proposed kennel use will employ up to ten persons, and fulfills the rural economy intent of the Plan with a relatively low-intensity commercial use.

(Q) Standard *Whether the proposed special exception considers the needs of agriculture, industry, and businesses in future growth.*

Analysis The Property is not currently used agriculturally, and the proposed uses will not impeded agricultural development on surrounding properties. The proposed kennel use will be contained within the existing structures, and the one proposed new structure, on a developed Property. The approval of these uses would not preclude the future use of the Property for any other use consistent with the Plan and allowed by the Zoning Ordinance.

(R) Standard *Whether adequate on and off-site infrastructure is available.*

Analysis The proposed kennel use will be adequately served by some on-site (water, septic) and some off-site (electricity, phone, road access) infrastructure.

(S) Standard *Any anticipated odors which may be generated by the uses on site, and which may negatively impact adjacent uses.*

Analysis The proposed kennel use is not anticipated to create any odors that may negatively impact adjacent uses.

(T) Standard *Whether the proposed special exception uses provide sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas.*

Analysis Any construction traffic that will access the Property will do so via Cider Mill Road. All construction activity will be reviewed and permitted by the County Department of Building and Development, which will require adequate mitigation of impacts during construction.

| VI. ATTACHMENTS | PAGE |
|---|-------------|
| 1. Review Agency Comments | |
| a. Building & Development, Zoning Administration (December 02, 2008; October 24, 2008; September 02, 2008) | A-001 |
| b. Building & Development, Environmental Review Team* (October 30, 2008; September 02, 2008) | A-005 |
| c. Planning, Comprehensive Planning (December 9, 2008; November 5, 2008; August 29, 2008) | A-007 |
| d. Office of Transportation Services (November 10, 2008; September 02, 2008) | A-019 |
| e. Virginia Department of Transportation (November 25, 2008; September 12, 2008) | A-024 |
| f. Health Services Department, Environmental (August 28, 2008) | A-027 |
| g. Animal Control (September 26, 2008) | A-028 |
| h. Parks, Recreation, and Community Services (October 23, 2008; August 20, 2008) | A-029 |
| i. Department of Fire, Rescue, & Emergency Management (September 09, 2008) | A-033 |
| 2. Disclosure of Real Parties in Interest (signed November 25, 2008) | A-035 |
| 3. Applicant's Statement of Justification (July 10, 2008) | A-045 |
| 4. Applicant's Response to Referral Comments (January 7, 2009; November 25, 2008; October 15, 2008) | A-053 |
| 5. Zoning Correspondence (ZCOR) 2005-0065 (dated March 24, 2005) | A-071 |
| 6. Referenced Ordinance Sections in Staff Report: | |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 2-102, AR-1 District Use Table (excerpt) | A-075 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-606, Kennels/Indoor Kennels | A-077 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-652, Exterior Lighting and Noise Standards for Specific Uses | A-079 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-1507, Noise Standards | A-081 |
| • <u>Codified Ordinance</u> , Chapter 808, Dog Kennels | A-083 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-1000, Scenic Creek Valley Buffer | A-087 |
| • <u>Revised 1993 Zoning Ordinance</u> , Table 5-1414(A), Buffer Types-Adjacent Land Use Groups | A-089 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-1410, Maintenance (Buffering and Screening) | A-090 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 6-504, Civil Violations | A-091 |
| • <u>Revised 1993 Zoning Ordinance</u> , Section 5-1102, Parking and Loading | A-093 |
| 7. Letters between Applicant and County (ZCOR 2007-0031) (September 27, 2007 & November 6, 2007) | A-099 |
| 8. Chronology of Correspondence/Actions regarding Applicant/use (06/17/05 – 08/21/07) | A-103 |
| 9. Conceptual Floor Plans A1 and A2 (received November 25, 2008) | A-107 |
| Special Exception Plat (July 2008; revised January 07, 2009) | Attached |

* - First Referral incorporated in the referral with Zoning Administration.